

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the proposed adoption of)	NOTICE OF PROPOSED
New Rules I through IV relating to the)	ADOPTION
Montana pulse crop research and market)	
development program)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On September 23, 2006, the Montana Department of Agriculture proposes to adopt the above-stated rules relating to the Montana pulse crop research and market development program.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on September 7, 2006, to advise us of the nature of the accommodation that you need. Please contact Joel A. Clairmont at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-3144; Fax: (406) 444-5409; or e-mail: agr@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I MONTANA PULSE CROP ADVISORY COMMITTEE

(1) The committee shall be a six-member committee consisting of individuals actively involved in the pulse crop industry in the production, research, or marketing of pulse crops.

(2) A majority of the committee members must be pulse crop "producers" per 80-11-510(3), MCA. "Producer" is defined in 80-11-503(5), MCA.

(3) On initial appointment by the director of the Montana Department of Agriculture, one member shall be appointed for a one-year term, two members for a two-year term, and three members for a three-year term at the director's discretion. After the initial term, all members may serve three-year terms with a maximum of three consecutive terms allowed.

AUTH: 80-11-504, MCA

IMP: 80-11-510, MCA

NEW RULE II DEFINITIONS When used in these rules, the following definitions apply:

(1) "Department" means the Montana Department of Agriculture.

(2) "Net receipts" are defined as net weight multiplied by the price paid to the producer.

(3) "Pulse crops" are defined as dry peas, lentils, chickpeas, and fava beans.

AUTH: 80-11-504, MCA

IMP: 80-11-503, 80-11-515, MCA

NEW RULE III ANNUAL PULSE CROP COMMODITY ASSESSMENT-COLLECTION (1) Section 80-11-516, MCA charges the Montana Department of Agriculture with collecting the commodity assessment.

(2) The assessment shall be 1% of the net receipts of pulse crops produced in Montana.

(3) The assessment per 80-11-515, MCA will occur at the time of first sale by a seller and must be collected by the first purchaser of the commodity from the seller. It shall occur at the time of each settlement for the commodity purchased or by invoice form provided by the Montana Department of Agriculture.

AUTH: 80-11-504, MCA

IMP: 80-11-515, MCA

NEW RULE IV APPLICATIONS FOR PULSE CROP RESEARCH AND MARKETING PROJECT FUNDS (1) Applications for project funding shall be filed with the department on or before December 1 of each year. Filing requirements will be satisfied by receipt of the original and 10 copies of each application at the Montana Department of Agriculture.

(2) The advisory committee, at the first regular meeting of each calendar year, will review education, production, research, and marketing project applications and a recommendation made to the department as to which projects they would propose to fund and the amount of funding suggested. Recommended projects will be determined by amount of funds, type of project, need as determined by the industry, and whether the project is new or ongoing.

(3) Applicants shall be notified within 30 days after the committee's first calendar year meeting whether or not their application(s) have been granted and the amount to be funded for each approved project.

(4) The department shall evaluate all outstanding project agreements semi annually for adequate and satisfactory financial control, accounting, and performance by project participants.

(5) The department may modify or terminate the funding of any project if a determination is made that the grantee has not complied or cannot comply with a provision of the project agreement. The department shall notify the grantee in writing within 30 days of such determination, of the reasons for the determination, and the effective date of the modification or termination.

AUTH: 80-11-504, MCA

IMP: 80-11-511, MCA

REASONS: The Montana pulse crop industry passed a positive referendum voting in favor of establishing a Montana Pulse Crop Research and Market Development Program. This program, created under 80-11-501 through 519,

Montana Code Annotated, will be funded from a portion of the net receipts at the first point of sale of the commodity. These rules define membership and terms of the advisory committee and develop the method by which the assessment fee will be collected and expended. It is estimated that this program will impact 200 pulse crop producers in Montana and will generate revenue of approximately \$150,000 to \$200,000 per year for research and market development of Montana pulse crops.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Joel A. Clairmont at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or e-mail: agr@mt.gov. Any comments must be received no later than September 21, 2006.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Joel A. Clairmont at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or e-mail: agr@mt.gov. A written request for hearing must be received no later than September 21, 2006.

6. If the department receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 20 persons based on approximately 200 pulse crop producers in Montana.

7. The Department of Agriculture maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or e-mail: agr@mt.gov or may be made by completing a request form at any rules hearing held by the Department of Agriculture.

8. An electronic copy of this Notice of Proposed Adoption is available through the department's website at www.agr.mt.gov, under the Administrative Rules section. The department strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the

Notice, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

DEPARTMENT OF AGRICULTURE

/s/ Nancy K. Peterson
Nancy K. Peterson, Director

/s/ Timothy J. Meloy
Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the Secretary of State, August 14, 2006.